



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Taylor Scott
Not Provided
Not Provided

SEP 27 2019

Re: FOIA-2019-01196

Dear Mr. Scott:

This is in response to your request dated August 21, 2019, under the Freedom of Information Act seeking access to "all emails sent to, from, or copied to Joseph J. Simons from June 1, 2019 to August 1, 2019 containing the non-case sensitive key-string "Equifax". In accordance with the FOIA and agency policy, we have searched our records on Sept.

Your original request did not indicate an agreement to pay any fees associated with the processing of your request. In the future, please provide a fee agreement to facilitate the processing of your request. You can also make your request at <https://www.ftc.gov/about-ftc/foia/make-foia-request>.

We have located 732 pages of responsive records. I am granting partial access to the accessible records. Portions of these pages fall within one or more of the exemptions to the FOIA's disclosure requirements, as explained below.

Some responsive records are exempt from disclosure under FOIA Exemption 3, 5 U.S.C. § 552(b)(3), because they are exempt from disclosure by another statute. Specifically, Section 6(f) of the FTC Act exempts from disclosure "any trade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential." 15 U.S.C. § 46(f). Commercial or financial information is "confidential" if disclosure of the information is likely to have either of the following effects: (1) to impair the Government's ability to obtain necessary information in the future; or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained. *See National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974).

In addition, some responsive records constitute confidential commercial or financial information, which is exempt from disclosure under FOIA Exemption 4, 5 U.S.C. § 552(b)(4). *See Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879 (D.C. Cir. 1992). Moreover, because Section 6(f) of the FTC Act, 15 U.S.C. § 46(f), prohibits public disclosure of this type of information, it is also exempt under FOIA Exemption 3, 5 U.S.C. § 552(b)(3), which, as noted above, exempts from disclosure any information that is protected from disclosure under another federal statute.

Some responsive records contain staff analyses, opinions, and recommendations. Those portions are deliberative and pre-decisional and are an integral part of the agency's decision making process. They are exempt from the FOIA's disclosure requirements by FOIA Exemption

5, 5 U.S.C. § 552(b)(5). See *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132 (1975). Additionally, some records contain information prepared by an attorney in contemplation of litigation which is exempt under the attorney work-product privilege. See *Hickman v. Taylor*, 329 U.S. 495, 509-10 (1947). Furthermore, some of the materials are exempt from disclosure as attorney-client communications. See *Upjohn Co. v. United States*, 499 U.S. 383 (1981); and *Mead Data Central, Inc. v. Department of the Air Force*, 566 F.2d 242 (D.C. Cir. 1977).

Some information is exempt from disclosure under FOIA Exemption 7(E), 5 U.S.C. § 552(b)(7)(E). Exemption 7(E) protects information that would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. See *Foster v. DOJ*, 933 F. Supp. 687 (E.D. Mich. 1996).

I am denying access to names and addresses and any other identifying information found in the documents. This information is exempt from release under FOIA Exemption 6, 5 U.S.C. § 552(b)(6), because individuals' right to privacy outweighs the general public's interest in seeing personal identifying information. See *The Lakin Law Firm v. FTC*, 352 F.3d 1122 (7th Cir. 2003).

Based on the fee provisions of the FOIA, 5 U.S.C. § 552(a)(4)(A), and the Commission's Rules of Practice, 16 CFR § 4.8 et seq., as amended, I am also enclosing an invoice for the charges we incurred for this response to your request. Failure to pay this bill promptly will result in our refusal to provide copies of accessible documents in response to future requests. If not paid within 30 days, this bill will accrue interest penalties as provided by Federal Claims Collection Standards, 31 C.F.R. § 900-904, as amended.

Please make checks payable to U.S. Treasury and send payment to:

Financial Management Office, H-790
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

If you are not satisfied with this response to your request, you may appeal by writing to Freedom of Information Act Appeal, Office of the General Counsel, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, or via email at FOIAAppeal@ftc.gov, within 90 days of the date of this letter. Please enclose a copy of your original request and a copy of this response.

You also may seek dispute resolution services from the FTC FOIA Public Liaison Richard Gold via telephone at 202-326-3355 or via e-mail at rgold@ftc.gov; or from the Office of Government Information Services via email at ogis@nara.gov, via fax at 202-741-5769, or via mail at Office of Government Information Services (OGIS), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740.

If you have any questions about the way we handled your request or about the FOIA regulations or procedures, please contact Amber Howe at 202-326-3498.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dione J. Stearns". The signature is fluid and cursive, with the first name "Dione" being the most prominent.

Dione J. Stearns
Assistant General Counsel